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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/590,533	05/24/2007	D.Glenn Purcell	47082-155USPX	9803

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EXAMINER	
SIMPSON, SARAH A	

ART UNIT	PAPER NUMBER
3731	

MAIL DATE	DELIVERY MODE
12/22/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/590,533	PURCELL, D.GLENN	
	Examiner	Art Unit	
	SARAH A. SIMPSON	3731	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *24 August 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-13* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) _____ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☒ Claim(s) *1-13* are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *24 August 2006* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *1/17/2008; 3/5/2007*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claims 1-13** are rejected under 35 U.S.C. 102(b) as being anticipated by **Levin et al. (US 5,517,978)**.

Regarding claims 1 and 7, Levin discloses a method for damping a lancet, comprising providing a lancet with a main housing (5) having an internal surface enclosing a portion of a lancing mechanism, the lancing mechanism including a lancet holder (25) attached to a shaft (29) and a drive spring (37) surrounding a portion of the shaft, the drive spring being located between the lancet holder and the internal surface, the lancing mechanism being adapted to move between a resting position, a cocking position, and a puncture position (figs. 2-3); and a movable housing (47) adjacent the main housing, the movable housing being adapted to move from a resting position to a cocking position, the moveable housing having an internal surface enclosing a portion of the shaft of the lancing mechanism, the enclosed portion of the shaft having a retainer (43) and a secondary spring (45) surrounding at least a section of the shaft, the secondary spring being located between the retainer and the internal surface of the

movable housing, wherein the secondary spring is adapted to move the movable housing from the cocking position to the resting position, the secondary spring being further adapted to move the lancing mechanism from the puncture position to the resting position; compressing the drive spring and the secondary spring by moving the movable housing away from the main housing to the cocking position (columns 2-3, lines 63-68, 1-2; wherein the secondary spring is automatically compressed by pulling back the sleeve); decompressing the secondary spring to move the movable housing from the cocking position to the resting position, adjacent the main housing (column 3, 2-4); actuating the drive spring to cause the lancet holder to move from the cocking position to the puncture position (column 2, lines 41-52); recompressing the secondary spring as the lancet holder moves from the cocking position to the puncture position; and decompressing the secondary spring to move the lancet holder from the puncture position to the resting position (column 2, lines 52-57).

Regarding claims 2 and 12, Levin discloses wherein the secondary spring constant is less than the spring constant of the drive spring (column 2, lines 52-57; wherein if the secondary spring had a spring constant greater than the drive spring than the needle would spring out of the housing again, puncturing the site twice and leaving the device inoperable).

Regarding claims 3 and 9, Levin discloses wherein the drive spring is not attached to the lancet holder or the internal surface of the main housing (figs. 2, 3).

Regarding claims 4 and 10, Levin discloses wherein the secondary spring is not attached to the retainer of the shaft or the internal surface of the movable housing

(column 2, lines 30-32; wherein the spring is attached between the retainer and housing, on collar 41).

Regarding claims 5 and 11, Levin discloses wherein neither the drive spring nor the secondary spring are attached to any component of the lancing mechanism (figs. 2, 3).

Regarding claim 6, Levin discloses wherein the secondary spring surrounds the entirety of the portion of the shaft enclosed within the movable housing (fig. 3).

Regarding claim 8, Levin discloses wherein there is an act of adjusting the spring ratio between the drive spring and the secondary spring to adjust a force applied to the lancet holder as it moves from the cocking position to the puncture position (column 2-3, lines 63-68, 1-13).

Regarding claim 13, Levin discloses the act of piercing the skin of a test subject with a lancet received by the lancet holder as the lancet holder moves from the cocking position to the puncture position (figs. 2, 3).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SARAH A. SIMPSON whose telephone number is 571-270-3865. The examiner can normally be reached on Monday - Friday 8 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Todd Manahan can be reached on 571-272-4713. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sarah A Simpson/
Examiner, Art Unit 3731

/Todd E Manahan/
Supervisory Patent Examiner, Art Unit 3731